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CHARLES ELMORE CRO
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THE SUPREME COURT OF THE UNITED STATES

October Term, 1930.

LOUISIANA PUBLIC SERVICE COMMISSION, et als.,
Appellants,

vs.

TEXAS & NEW ORLEANS RAILROAD COMPANY, et als.,

No. 36

AND

LOUISIANA PUBLIC SERVICE COMMISSION, et als.,
Appellants,

vs.

UNITED STATES OF AMERICA, et als.

No. 37

Appeals from the United States District Court,
Eastern District of Louisiana,
Baton Rouge Division.

MOTION TO ADVANCE FOR ARGUMENT.

PERCY SAINT,
WYLIE M. BARROW,
Solicitors for Movers.

BARNES-JONES, BATON ROUGE, LA.

THE SUPREME COURT OF THE UNITED STATES

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vs.

TEXAS & NEW ORLEANS RAILROAD COMPANY, et als.,

AND

LOUISIANA PUBLIC SERVICE COMMISSION, et als.,
Appellants,

vs.

UNITED STATES OF AMERICA, et als.

No. 804.

No. 805.

**Appeals from the United States District Court,
Eastern District of Louisiana,
Baton Rouge Division.**

MOTION TO ADVANCE FOR ARGUMENT.

Now come the appellants through their undersigned respective solicitors and move that these cases be advanced

for early hearing, and in support of their motion make the following brief statement of the matters involved and the reasons relied on for the advancement:

The cases involve the validity of an order of the Interstate Commerce Commission of June 3rd, 1929, effective October 17th, 1929, and orders supplementary thereto, entered in the proceedings before the commission entitled No. 17,000, *Rate Structure Investigation, Part II, Sand and Gravel,* which embraced Docket No. 16,002, *R. A. Gibson vs. Kansas City Southern Railway Co., et als.*, Docket No. 18,702, *Tennessee-Arkansas Gravel Company vs. Missouri Pacific Railroad Company,* and sundry other dockets consolidated therewith, (155 I. C. C. 457), in so far as the said orders prescribe intrastate rates on shipments of sand, gravel, crushed stone, and shells, carloads, between points in western Louisiana south of the line of the Vicksburg, Shreveport & Pacific Railway (now Illinois Central System), including points on the east bank of the Mississippi River.

The cases bring into question the power and authority of the Interstate Commerce Commission to regulate purely intrastate rates and commerce by prescribing rates to apply to the intrastate transportation of the above described commodities in straight or mixed carloads, in the said portion of western Louisiana, substituting such rates for the intrastate rates lawfully prescribed by the Louisiana Public

Service Commission, the state authority vested with power to fix and regulate Louisiana intrastate rates of railroads operating in the State of Louisiana.

The said orders are challenged on the ground that there is no finding or statement of evidence by, or evidence before the Interstate Commerce Commission showing the cost of performing the service of transporting said commodities; no finding by or evidence before said commission as to the cost of performing the ferry transfer service across the Mississippi River at Vicksburg and points south thereof, although separate ferry arbitraries are established to apply on said intrastate traffic; no finding by said commission supported by evidence, or statement of evidence, showing that the intrastate rates applying on said commodities in said western Louisiana operate as a real and substantial discrimination against, obstruction to or burden upon interstate commerce; no authority in said commission to remove discrimination as between the states themselves; and that the said orders by a regulation of commerce, give a preference to the ports of one State over those of another, in violation of Article I, Section 9, Clause 6, of the Constitution of the United States.

The cases also involve the question whether a mere disparity between interstate and intrastate rates on the commodities in question authorizes the Interstate Commerce Commission to set aside lawfully established intra-

state rates, and whether the commission is authorized to remove discrimination growing out of a relationship of interstate and intrastate rates when there has been no investigation or finding under Section 15a of the Interstate Commerce Act, as amended by the Transportation Act, 1920.

As a result of the said orders of the Interstate Commerce Commission, the Louisiana Highway Commission, an agency of the State of Louisiana, and other shippers, have been since October 17th, 1921, and are still compelled to pay the railroads transporting shipments of the aforesaid commodities in the described territory freight rates and charges which are in excess and in violation of those prescribed by the Louisiana Public Service Commission, and justice demands that the cases should be heard and the issues determined as speedily as possible in order that the rights of the respective parties may be known.

Case No. 805 is entitled to preference under Sec. 47a, (*U. S. Code Sup.* 111), *District Court Jurisdiction Act*, approved June 18, 1910, c. 309, sec. 2, 36 Stat. 542; Mar. 2, 1911, c. 231; sec. 210, 36 Stat. 1150; Oct. 22, 1913, c. 32, 38 Stat. 220, 4 I. C. C. Act. Ann. 3176, wherein it is provided that

> "Appeals to the Supreme Court under this section and section 47 of this title shall have priority in hearing and determination over all other causes except criminal causes in that court."

WHEREFORE, we pray that these cases be advanced upon the calendar and assigned at the earliest convenience of the court.

Respectfully submitted,

PERCY SAINT,

WYLIE M. BARROW,

Solicitors for Movers.